



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ४, अंक ५३]

शुक्रवार, जुलै १३, २०१८/आषाढ २२, शके १९४०

[पृष्ठे ६, किंमत : रुपये २७.००

असाधारण क्रमांक १०३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि
विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Second Amendment) Bill, 2018 (L.A. Bill No. XLVII of 2018), introduced in the Maharashtra Legislative Assembly on the 13th July 2018, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XLVII OF 2018.

A BILL

*further to amend the Mumbai Municipal Corporation Act,
the Maharashtra Municipal Corporations Act and the
Maharashtra Municipal Councils, Nagar Panchayats and Industrial
Townships Act, 1965.*

III of 1888. WHEREAS it is expedient further to amend the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the LIX of 1949. Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Mah. Townships Act, 1965, for the purposes hereinafter appearing ; it is hereby XL of enacted in the Sixty-ninth Year of the Republic of India as follows :— 1965.

भाग आठ-१०३-१.
एचबी-१७०७-१.

(१)

CHAPTER I

PRELIMINARY

- Short title. 1. This Act may be called the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Second Amendment) Act, 2018.

CHAPTER II

AMENDMENT TO THE MUMBAI MUNICIPAL CORPORATION ACT.

- Amendment of section 152 A of III of 1888. 2. In section 152A of the Mumbai Municipal Corporation Act, in sub-section (1), after the first proviso, the following proviso shall be added, namely :—

“Provided further that, the rates decided by the Corporation under this sub-section shall be deemed to have come into effect from the 1st April 2010, being the date of commencement of the Mumbai Municipal Corporation (Third Amendment) Act, 2006.”.

III of 1888.

Mah. XI of 2009.

CHAPTER III

AMENDMENT TO THE MAHARASHTRA MUNICIPAL CORPORATIONS ACT.

- Amendment of section 267A of LIX of 1949. 3. In section 267A of the Maharashtra Municipal Corporations Act, after the first proviso, the following proviso shall be added, namely :—

“Provided further that, the rates decided by the Corporation under this sub-section shall be deemed to have come into effect from the 4th January 2008, being the date of commencement of the Bombay Provincial Municipal Corporations, the City of Nagpur Corporation and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2007.”.

Mah. II of 2008.

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA MUNICIPAL COUNCILS, *NAGAR PANCHAYATS* AND INDUSTRIAL TOWNSHIPS ACT, 1965.

- Amendment of section 189A of Mah. XL of 1965. 4. In section 189A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, in sub-section (1),—

Mah. XL of 1965.

(a) for the words “shall be liable to pay every year a penalty, which shall be equal to twice the property tax leviable on such building”, the following shall be substituted, namely :—

“shall be liable to a penalty, at such rate as may be decided, from time to time, by the Government, by an order, on such building”;

(b) after the first proviso, the following proviso shall be added, namely :—

“Provided further that, the rates decided by the Government under this sub-section, in view of the amendment carried out by clause (a) of section 4 of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Second Amendment) Act, 2018, shall be deemed to have come into effect from the 4th January 2008, being the date of commencement of the Bombay Provincial Municipal Corporations, the City of Nagpur Corporation and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2007.”.

Mah. of 2018.

Mah. II of 2008.

CHAPTER V

MISCELLANEOUS

III of 1888. LIX of 1949. Mah. XL of 1965. 5. (1) If any difficulty arises in giving effect to the provisions of the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act or, as the case may be, the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, give such directions not inconsistent with the provisions of the relevant Act, as amended by this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty : Power to remove difficulty.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order issued under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS.

Section 152A of the Mumbai Municipal Corporation Act (III of 1888), section 267A of the Maharashtra Municipal Corporations Act (LIX of 1949) and section 189A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), as incorporated in the relevant municipal laws, provided that, whoever unlawfully constructs or reconstructs any building or part of a building on his land without prior permission under those Acts or any other law for the time being in force or in contravention of the provisions attached to the permission or, on a site without approval of the law relating to Regional and Town Planning or, on his land in breach of the provisions of the Act or the rules or bye-laws made thereunder or in breach of any direction or requisition given under those Acts or on any land belonging to or leased by the Corporation, or the Central or State Government or a statutory organisation or company set by such Government, in breach of the provisions of the Act or any law for the time being in force, shall be liable to pay every year, a penalty which shall be equal to twice the property tax leviable on such building, so long as such building remains unauthorised. The said sections further provide that such levy shall be without prejudice to any proceedings which may be taken against such person for such unlawful construction. It is also provided that the levy and collection of the tax and penalty shall not be construed as regularization of such unlawful construction or reconstruction for any period whatsoever of its unlawful existence. Sub-section (2) of the said sections provide that the penalty provided under sub-section (1) shall be determined and collected as if the amount due were arrears of property tax. The said section 152A of the Mumbai Municipal Corporation Act (III of 1888) and section 267A of the Maharashtra Municipal Corporations Act (LIX of 1949) have been amended by the Maharashtra Act No. LI of 2017, and the Municipal Corporation are empowered to decide the quantum of penalty to be levied thereunder with effect from 8th January 2017.

It has been observed that, some unscrupulous elements after constructing the building unlawfully sell the flats and units thereof to the buyers who purchase the flat and units thereof under genuine belief that such construction is duly authorised under the law. Since, the amount of penalty is recovered as if it were the arrears of property tax, such buyers are required to pay the penalty, not for their fault.

In view of the above, it is proposed to add second proviso to sub-section (1) of section 152A of the Mumbai Municipal Corporation Act (III of 1888) and sub-section (1) of section 267A of the Maharashtra Municipal Corporations Act (LIX of 1949), so as to provide that the rates decided by the Corporation thereunder shall be deemed to have come into effect from the date of incorporation of the said section 152A and the said section 267A.

2. In this backdrop, it is also proposed to amend section 189A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), with a view to provide that, instead of levy of penalty at twice the amount of property tax, the amount of penalty shall be decided by the Government. This levy of penalty however shall not preclude the Municipal Council from undertaking any proceedings against

the person in respect of such unlawful construction under the law. A second proviso is also added to sub-section (1) of the said section 189A, so as to provide that the rates decided by the Government thereunder shall be deemed to have come into effect retrospectively from the date of incorporation of the said section 189A.

3. The Bill seeks to achieve the above objectives.

Nagpur,

Dated 10th July 2018.

DEVENDRA FADNAVIS,

Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative power, namely :—

Clause 5.—Under this clause, power is taken to the State Government, to remove, by an order published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of the Mumbai Municipal Corporations Act, the Maharashtra Municipal Corporations Act or, as the case may be, the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by the proposed law, within a period of two years from the date of commencement of the Amendment Act.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.